

WIGDOR LLP

ATTORNEYS AND COUNSELORS AT LAW

85 FIFTH AVENUE
NEW YORK, NY 10003
TEL 212.257.6800
FAX 212.257.6845
WWW.WIGDORLAW.COM

Michael J. Willemin
mwillemin@wigdorlaw.com

January 28, 2021

VIA ECF

MEMORANDUM ENDORSEMENT

The Honorable Ronnie Abrams
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: Eckhart v. Fox News Network, LLC, et al.; Civ. Case No. 1:20-cv-5593 (RA)

Dear Judge Abrams:

We represent Plaintiff Jennifer Eckhart in the above-referenced matter, and we write to respectfully request that the Court lift the temporary stay on discovery that was entered during the August 28, 2020 conference in this case. Specifically, now that both Defendants' motions to dismiss are fully briefed, Plaintiff respectfully requests that the parties be permitted to proceed with discovery in this matter.

During the August 28, 2020 conference, the Court entered a temporary stay of discovery in this case pending Plaintiff's Amended Complaint and Defendants' motions to dismiss. In response to Defendant Henry's request that discovery be permitted to proceed, Your Honor explained:

I fully appreciate his desire to move this case along as soon as possible, and I'll commit to you that I'll try and move this case along as quickly as I can as well, but I really don't think that makes sense. I think it makes more sense to get the amended complaints and see where we are. As I said, what I am flexible about is when we meet again. If we meet again after I get the responsive pleadings, which probably makes more sense because one of the factors that plays into a request for a stay is, you know, the strength of the dispositive motions, so I think, frankly, I'll be in a better position to assess that after I receive the motions.

See August 28, 2020 Conference Transcript at p. 19.

Now, in light of the fact that Defendants' motions have been briefed, Plaintiff respectfully requests the stay of discovery be lifted to allow the parties to continue to litigate this case. We have

WIGDOR LLP

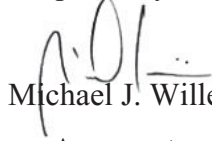
ATTORNEYS AND COUNSELORS AT LAW

The Honorable Ronnie Abrams
January 28, 2021
Page 2

consulted with Defendants in this matter and Defendant Henry has stated that he consents to document discovery proceeding but objects to depositions proceeding before a decision on the pending motions to dismiss. Plaintiff has no objection to this proposal but reserves her right to renew her application to allow depositions to move forward after document discovery is completed. Defendant Fox News has stated that it objects to any discovery taking place in this case.

We thank Your Honor for the Court's consideration and attention to this matter.

Respectfully submitted,




Michael J. Willemin

Any party seeking to stay discovery pending disposition of a motion to dismiss shall file a motion for a stay of discovery on or before February 25, 2021 (unless the parties agree among themselves to a later filing date and the agreement is disclosed in a letter filed on ECF). If such a motion is filed, briefing shall be in accordance with paragraph 2.B of the Court's Individual Practices. A party may file a letter in lieu of a memorandum of law if it wishes. Discovery shall be stayed pending disposition of any motion for a stay.

With respect to addressing the issue of the "strength of the motion," see *Hong Leong Fin. Ltd. (Singapore) v. Pinnacle Performance Ltd.*, 297 F.R.D. 69, 72 (S.D.N.Y. 2013), a party has leave to incorporate by reference a previously-filed brief rather than repeating arguments made in such a brief.

So Ordered.


GABRIEL W. CORENSTEIN
United States Magistrate Judge
February 18, 2021